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\$6.00 PER YEAR.

But it is contended on the part of the heirs of

very peoperly considered together.

shall inherit all her estate.

Honolula, Dec. 14, 1871.

Austria are unfit to govern themselves.

Austria,

[Vienna Corvespondence (Oct. 11) of London Mail.]

ELISIA H. ALLEN,

Associate Justice.

ALFRED S. HARTWELL,

from the fund.

Defendant.

VOL. VII---NO. 49.

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A. A. the part year than any other Lefe Insurance Company in the United States. Had an income in 1870 of 87,500,000 Its Assets amount to \$15,000,000

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Be pointed Agents of the above Company, are prepared to insure risks agents! Fire, on Stone and Brick Buildings, and on Merchandise stored thorein, so the

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of the world, and vice versa.

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which he has beretofore enjayed. Tax-Collector's Notice.

Sick or Lame Horses Doctored.

Thankful for past favors, he hopes by attention to

THE Tax-Payers in the District of Hono-I into, Island of Onlin, are hereby notified that the undersigned will commence the collection of Taxes for the year 1871, at his office in Marine Street, (op-

Tax-Collectors's Office, Oct. 4th, 1871. 38-tf

GEO. H. LUCE,

Supreme Court.

IN THE MATTER OF THE ESTATE OF NAPUA SUPPLIES

WALUAHINE, DECEASED. The case is submitted on an agreed statement of facts. It appears that Napaa Zupplien made a trust deed, bearing date April 15, 1871, of all her property to S. B. Dole, the respondent, to be managed by him, and paid out for her benefit and purposes, therein stipulated; in which trust deed it was expressly declared that in case of the death of the said Napon, the trustee should convey the said real and personal property, or whatsoever part of it may remain in his hands, to the beirs of her body, or according to the tenor of her will should she leave a valid will, in fee, or if neith-

er, to ber heirs according to law. It is argued further, that Napua Zapplien was married to Kalualtine on or about the 15th day of May last past, and that she died intestate on or about the 24th of Sept. last past, leaving her

husband alive. That previous to the said marriage, and with the knowledge of the said Kaluahine, she the heirs as if she had died sole. said Napua Zupplien Kalaubine, conveyed all her estate, real and personal, with the exception of her interest in the awa trade, to the said reby virtue of the trust deed, that they can claim

spondent in trust as aforesaid. It is agreed that Olepau and Palaure the brother and son of another brother of the late Napua Zupplien Kaluahine and are the nearest blood relations; and it is alleged by the counsel for the parties in interest that the defendent died with-

out issue, and that she left no will. Upon this statement of facts the petitioners ask judgment of the Court in the question of the heirship of the said personal property, which is the matter of controversy between and petitioners.

The husband claims that by virtue of the marriage he became the owner of the personal property of the wife and at her death was entitled to the possession of the same, although conveyed in trust as before stated. By the Code, the hosband is accountable for the debts of his wife, contracted either below or after marriage. He is bound to maintain and provide for his wife. The descent. He cannot under both provisions. For husband shall in virtue of his marriage and in by the first he takes all the personal property, consideration of the responsibilities imposed upon and under the law of descent, as contended, he ann by law, be the virtual owner, except other- would take one half only of the personal and one wise stipulated by express marriage contract, of half of the real. The provisions are incompatible. all moveable property belonging to his wife anterior to marriage, and of all movesble property accruing to her after marriage, over all of which he shall have absolute control unless otherwise stip- no kindred but her husband, and in that case he

The Code further provides that the husband is entitled to the priority in the administration of the property of the deceased wife. The English statute is the same, and he is said to administer for his own of his marriage with Napua Zupplem. Let Judgbenefit and for the recovery of her outstanding property to his own use and enjoyment, including rights vested and contingent, and funds at her disposal during her life-time or held in trust for her. This principle of distribution, establish act in England, was formerly recognized generally in the United States, but has been very much

modified by legislation in some of the States. This is substantially a re-enactment of the common law, for the right of the husband at common law was not only to administer, but to enjoy ex-

durively the effects of his deceased wife. It is contended by the counsel for the heirs. that the husband is not entitled in any event to the choses in action, unless he has reduced the same to possession during the life of the wife. | membered the opposition minority seconded, has In the case of Whittaker vs. Whittaker 6 John passed without debate, all the proposals of its 117 and 118, the Court say that the husband surviving his wife, is entitled to have her choses in | fundamental laws, will be sent at once to Vienna action as well as to her personal estate in possess to be presented to the Emperor. The question sion, and that by a series of cases it is now set- now is what will be the answer of the Crown to tled that the representative of the husband is entitled as much to that species of property as lies | If ever there was a case of asking with the in action or suit, and is not reduced to possession | French "Qui trompe t-on ici?" it is the present as any other. The same principle is contained in one. To believe that the demands put forward Christian's notes to 2d Black. Com. 435. The by the Czechs are the last words of the solution husband shall have administration of all his wife's agreed upon by the Minister-President and the personal estate which he did not reduce to pos- | Czechs, as the only one calculated to restore insession before her death, and shall retain it to his ternal peace among the populations of Austria,

own use. - Elliott vs. Collins 3 Atk. 527; Cart | would imply so harsh a judgment on the political vs. Russ 1 p. Wms. 383. capacity of Count Hohenwart as is by no means The same principle is recognized in the more warranted by his past career or actions since he recent cases. In Wells vs. Tyler, 5 Foster, 342 took office. Even his bitterest enemies must If the husband survives his wife he is entitled give him credit for the skill which he has mainto administration, and to recover and receive any tained his position and isfluence in high quarters, property in her possession or to which she is en- and gathered together the Conservative, Clerical, titled, but which he had not reduced to his pos- and non-German elements to oppose them to the

session during her life, to his use. Liberal party which has been in power since 1867. A bequest of personal property including chos: Until, therefore, the contrary is proved by facts. es in action, to a married woman, vests the same | Count Hohenwart must have the benefit of the in her husband, and upon her decease he takes doubt, and we must suppose that the Czechish the property by survivorship as well as by the demands are the first and not the last word of American prices. A complete file of any imforce of the statute of distribution, although he the solution intended. does nothing during the coverture to reduce the | Munifold can be the meaning of this first word.

ing. 480. In Rawson vs. Nichols, N. Y. Rep. 113, the though there is not the remotest hope of its be- copies of each issue he would have had a rich Court say that the property in this case stands ing accepted. This imaginary price may have reward. A complete file of that paper would precisely upon the footing of choses in action of been agreed upon for form's sake by both sides, the wife which have not been reduced to posses- each of them with the ulterior view of getting would now readily bring \$5,000. The sum of sion during the coverture. In this event, the better in the final bargain. But the possibil- \$2,500 was recently voted by the Common Counband has the right to receive and enjoy them as ity is by no means excluded that the private ne- cil of New York city for the purpose of purhis own, either as an incident to the marital rela- gotiations were not conducted with preciseness, chasing a set which commenced with 1842, and tion and as flowing from it, or as an incident to and that at the last moment, after having com- which was, of course, deficient in the first seven

his right of administration upon her estate. are it is held that the husband is entitled for his pretensions which were as new to the Minister- that they could be sold at a large advance. The TO LET, at Mrs. T. Thrum's, own benefit, jure marati, to administer and to President as to the rest of the world. The length only complete files of the Heroid, of which I take all her chattels, real, things in action and ev- of time which the committee of the Bohemian have any knowledge, are those in Bennett's own ery other species of personal property, whether re- Diet took to draw up the address and its preten- hands, and these are kept from the public eye. duced to possession or contingent or recoverable tions, and the necessity which arose at last for Another complete file was in the hands of the only by suit, but if the wife leaves choses in a - having the chief movers in the matter up at Vi- paper merchants, Pearse & Brooks, who supplied tion not reduced to possession in the wife's life - enna would seem to indicate that at least up to a him with material, but this was lost when their time, the nusband will be liable for debts, diam certain point such has been the case. Another warehouse was burned, several years ago. There will be assets in his hands.

> scover debts due the wife at the time of the done if sternal peace is to be restored, only that have gone to the Herald establishment and somarriage, although they are not vested absolutely in this case there has been chosen for the purpose licited the privilege of a reference, but the reply in the husband. If the wife dies and the hus- an expedient just calculated to produce the oppo- is anchanged in character. One man foolishly band services her before he has reduced the chose site impression, not only in those who have been spoke of legal compulsion, and was politely told nuction to possession, it does not strictly sur- and still are against any concession to the Czechs, to "try it." The only way for those who wish vive to him, but he is entitled to recover the but even in those who were willing to go very far to possess such archives is to subscribe for the same to his own use by acting as her adminis- but not the length of breaking up the monarchy papers, and to keep the file unbroken until time

posite the Honolula Iron Works,) on Saturday, ith occurs who die intestate have a right to administ of October instant.

And in conformity with Section 503 of the Civil ter upon the personal estate, and to recover and enjoy the same. This applies to any species of the game are by required to make immediate payment of the came.

Office open every Monday, und Saturday, and Saturday, and Saturday, and Saturday, and Saturday, and Saturday, and Saturday are not so sense and cost the came.

Office open every Monday, und Saturday, and forth vs. Bradley, 2 Vesey 675; Richards vs. parties will ever come to an agreement by their | French revolution, and people were anxious to Richards, 2 Barn: & Al., 447; Drew vs. Laug, 21 own free will, and therefore, that the peoples of preserve a record of those exciting times - [Ex-38-tf | Eug. Law and Eq. Rep. 339.

Hawaiian Gazette RATES OF ADVERTISING.

Space Messured in 1 w. 1 m. 2 m. 3 m. 8 m. 12 m.

For a proper understanding of the rights of the In the meantime the sensation produced by parties it is necessary to examine into the intents | the Czechish demands have been very great inand purposes of the deed of the decedent to the | deed, not only upon the Constitutional party but trustee. It appears by the deed that she con- even in the Ministerial camp. That it should veyed the property for her benefit and use but to cause indignation in the former was to be expectse under the management of the trustee. It is | ed. but it seems that the surprise, not to say conin the nature of a self-imposed guardianship. sternation among those on whose co-operation There was no provision for the payment of any | the Ministry must reckon to carry out any planportion to any one but herself, but at her death of concession which it may have, in scarcely less. her legal heirs were to inherit. Without this However averse the Conservatives and Clericals provision even, the property would descend to as a body may be to the Liberals and their policy, her legal heirs. It is not in any respect in the none, or very few of them, are prepared to merinature of a contract; she doubtless thought that fice the unity-nay, the existence-of the Aushe property would be safer in the hands of a | trian Empire to their aversion for the Liberals. trustee or agent and would exonerate her from | Indeed it has always been the special boast of the cars of its management; and this seems to these elements to have the real interests of Aushave been the sole purpose. While the property tris more at heart than any one class. It is thereof a fems sole descends to her legal heirs, if mar- fore rather too much to reckon on their blindinge intervenes, then the inheritance is changed ness to expect them to help to pass the Crechish and the hosband takes, jure morati, according to demands even with considerable alterations to the the provisions of the Code, by which he becomes Reichsrath, and the organ of Cardinal Rauscher, the owner of the moveable property, and if there the Volksfraund, which might have been expectare no children the real estate descends to her ed to be most enchanted, expresses faithfully the impression produced on the mass of the Conservatives and Clericals, when in its remarks upon the decedent, that if they cannot legally claim the "surprise" it says that there are many honest and enlightened patriots who see in the realization of this compromise with the Czechs the end of

> Not more enchanted seem the Poles. They have soon become aware that this independs osition, if it was granted to the Czeche, would have some considerable inconveniences for themselves, and these inconveniences touch just the most sensitive point-the financial. The Czechs claim the right to contribute only a fixed sum for mmon affairs, so that naturally all that the Czechs would not take upon themselves would fall so much the more heavily upon others, and especially upon those who, like Galacia, bave hitherto contributed little in comparison to others. Besides, such a favor to the Czechs would considerably interfers with the stipulations made with the Poles, according to which, the same sum which is now spent for the administration of Galucia should be given over to the local government yearly to defray the expenses of internal

and that is, where she dies intestate and leaves founded hope that this strange conciliation scheme will never become the law of the country. The only danger is lest the Constitutionalists, unable We are of opinion, therefore, that the personal to control their just indignation, should allow property referred to in the deed of trust became themselves to be hurried into some inconsiderate the property of the husband, Kababine, by virtue step and thereby lose again the ground which they have gained. The great point is to weigh ment be entered accordingly, costs to be paid well every step, and to observe on their part, all constitutional forms strictly. The Government Chief Justice Supreme Court. has all along maintained that it will strictly ad-I fully concur with the foregoing decision and here to the present Constitution, and even its al-teration, if it were advisable, should be effected with an observance of the Constitution, as at present existing. Until now it cannot be said J. W. Austin for Plaintiff, and S. B. Dole for that there has been any gross violation of this Constitution. Enormous as are the demands of the Czeche, they are only the wishes of the Sohamian Diet, and it is the business of the The Constitutional Experiments in Reichsrath to examine them and agree to or reject them. Now, the Bohemun Diet is but a Rump Diet-all the Germans having left under The Bohemian Diet, from which it will be reprotest. Besides, it is quite certain that this Rump Diet will only send members to the Reichsrath under protest. But these are all things which the Reichsrath itself has to judge, and until in this latter some gross illegality is committed, it must pass as legal also. Now all the Dieta in which the Constitutionalists have the upper hand have chosen only members whom they expect will not take part in any but a "legal" Reichsrath; and this is sufficient guarantee for those Diets that when their representatives see the majority of the Reichsrath doing something contrary to the Constitution, will consider their mission as ended. It does not however, therefore follow that the Constitutionalists, as seemed the intention in the first indignation, ought to withdraw from the Reichsrath at once under protest. On the contrary, they ought to fight as long as fighting is possible. If they are out-voted they can speak and make their voices heard; to renounce this would be talamount to giving up a powerful weapon they hold.

VALUE OF OLD PAPERS.-A complete file of the London Times is quoted at £3,000 sterling, and would bring double that price if it were demended. This is a small sum compared with portant journal bears a value which is hardly to computed in money. Hence the importance of same to possession.—12 Cush., 382; 22 Picker- It may mean the first price named by the shop- keeping old papers. Thirty-three years ago the keeper in an Oriental bazaar, which is tried on al- Herald was started. Had any one laid up a few cost, with interest at compound rate, \$800. It. promised the Minister and having allowed him to volumes. The librarian to the City Hall informed Kent, 2d vol. Com. 119, says. Under the sint- burn his ships, the Czechs came forward with me that they were frequently consulted, and also solo, to that extent, for those choses in action meaning of this, as I believe, first word spoken are statements in the early issues of the Berulat, by the Czecha may be to show those who are which can throw light upon important questions The hasband has the right to sue for and re- averse to all concession that something must be now about to be brought into the courts. Lawyers into a set of States united only by a federal bond. gives it a value. Having referred to the London By the statute of distribution of 22d and 23d There is one more possible construction, and this | Times, I will add that it was commenced in 1759, Charles II. and the 25th section of the statute of | would be the most dangerous—namely, that there | the same year that the Moniteur was started in the 29th of Charles II., the husbands of femes exists a settled plan to furnish the most convinc- Paris, and both have retained their positions as

one half of the property by the law of descent. The statute declares that if the intestate shall leave no issue, his estate shall descend one half to his widow, and it is contended that if the intestate is a female and she leaves no issue, her estate shall descend one half to her husband. The right of the hasband under the marriage Act, and his right under the law of descent, are He has a right under the marriage Act to all the personal property of the wife, whether acquired before or after marriage, and by the law f descent, as contended for by the counsel, he is entitled to one half of the property both real and personal and the heirs of the wife to the other half. The Court does not regard this as a sound construction of the Statute. The hashand must take under the marriage Act, or under that of administration. All these symptoms of opposition manifesting themselves among the supporters of the Ministry There is only one condition under which the itself, besides the desperate resistance which the Constitutionalists prepare, may excite a well-